

**PSILOCYBIN PRESCRIPTION AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Luz Escamilla**

House Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill authorizes the production and medical use of psilocybin in the state.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes the production of psilocybin and psilocybin products;
- ▶ requires the Department of Agriculture and Food (UDAF) to regulate psilocybin production establishments;
- ▶ authorizes the Department of Health and Human Services (DHHS) to register psilocybin medical providers and therapy providers;
- ▶ allows an individual who is at least 21 years old to receive a psilocybin treatment directly from a psilocybin therapy provider;
- ▶ decriminalizes psilocybin possession under certain circumstances; and
- ▶ modifies the uses of certain statutorily created funds overseen by UDAF and DHHS.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



28        **4-41a-104**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
29        **26-61a-109**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
30        **30-3-10**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
31        **31A-22-1016**, as enacted by Laws of Utah 2019, Chapter 341  
32        **58-31b-305**, as last amended by Laws of Utah 2019, Chapter 447  
33        **58-60-205.5**, as enacted by Laws of Utah 2010, Chapter 214  
34        **58-61-306**, as enacted by Laws of Utah 1994, Chapter 32  
35        **58-67-304**, as last amended by Laws of Utah 2020, Chapters 12, 339  
36        **58-68-304**, as last amended by Laws of Utah 2020, Chapters 12, 339  
37        **58-70a-303**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
38    ENACTS:  
39        **4-41c-101**, Utah Code Annotated 1953  
40        **4-41c-102**, Utah Code Annotated 1953  
41        **4-41c-103**, Utah Code Annotated 1953  
42        **4-41c-104**, Utah Code Annotated 1953  
43        **4-41c-201**, Utah Code Annotated 1953  
44        **4-41c-202**, Utah Code Annotated 1953  
45        **4-41c-203**, Utah Code Annotated 1953  
46        **4-41c-204**, Utah Code Annotated 1953  
47        **4-41c-205**, Utah Code Annotated 1953  
48        **4-41c-206**, Utah Code Annotated 1953  
49        **4-41c-301**, Utah Code Annotated 1953  
50        **4-41c-302**, Utah Code Annotated 1953  
51        **4-41c-401**, Utah Code Annotated 1953  
52        **4-41c-402**, Utah Code Annotated 1953  
53        **4-41c-403**, Utah Code Annotated 1953  
54        **4-41c-404**, Utah Code Annotated 1953  
55        **4-41c-405**, Utah Code Annotated 1953  
56        **4-41c-406**, Utah Code Annotated 1953  
57        **4-41c-501**, Utah Code Annotated 1953  
58        **4-41c-502**, Utah Code Annotated 1953

59        **4-41c-601**, Utah Code Annotated 1953  
60        **4-41c-602**, Utah Code Annotated 1953  
61        **4-41c-701**, Utah Code Annotated 1953  
62        **26B-4-901**, Utah Code Annotated 1953  
63        **26B-4-902**, Utah Code Annotated 1953  
64        **26B-4-903**, Utah Code Annotated 1953  
65        **26B-4-904**, Utah Code Annotated 1953  
66        **26B-4-905**, Utah Code Annotated 1953  
67        **26B-4-906**, Utah Code Annotated 1953  
68        **26B-4-907**, Utah Code Annotated 1953  
69        **26B-4-908**, Utah Code Annotated 1953  
70        **26B-4-909**, Utah Code Annotated 1953  
71        **26B-4-910**, Utah Code Annotated 1953  
72        **26B-4-911**, Utah Code Annotated 1953  
73        **26B-4-912**, Utah Code Annotated 1953  
74        **26B-4-913**, Utah Code Annotated 1953  
75        **26B-4-914**, Utah Code Annotated 1953  
76        **26B-4-915**, Utah Code Annotated 1953  
77        **26B-4-916**, Utah Code Annotated 1953  
78        **58-37-3.1**, Utah Code Annotated 1953

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80        *Be it enacted by the Legislature of the state of Utah:*

81        Section 1. Section **4-41a-104** is amended to read:

82                                    **TITLE 4. UTAH AGRICULTURAL CODE**

83        **4-41a-104. Qualified Production Enterprise Fund -- Creation -- Revenue**  
84        **neutrality.**

85            (1) There is created an enterprise fund known as the "Qualified Production Enterprise  
86        Fund."

87            (2) The fund created in this section is funded from:

88            (a) money the department deposits into the fund under;

89            (i) this chapter; and

(ii) Chapter 41c, Psilocybin Production Act;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the Qualified Production Enterprise Fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's implementation of this chapter and Chapter 41c, Psilocybin Production Act.

(5) The department shall set fees authorized under this chapter and Chapter 41c, Psilocybin Production Act in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter and Chapter 41c, Psilocybin Production Act.

Section 2. Section ~~4-41c-101~~ is enacted to read:

## CHAPTER 41c. PSILOCYBIN PRODUCTION ACT

### Part 1. General Provisions

#### **4-41c-101. Definitions.**

(1) "Active psilocybin" means the psychoactive chemical C12H17N2O4P.

(2) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins;

(f) foreign matter; and

(g) synthetics.

(3) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(4) "Cultivation space" means, quantified in square feet, the horizontal area in which a psilocybin cultivation facility cultivates psilocybin, including each level of horizontal area if the psilocybin cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(5) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(6) "Independent psilocybin testing laboratory" means a person that:

(a) conducts a chemical or other analysis of psilocybin or psilocybin product; or

(b) acquires, possesses, and transports psilocybin or psilocybin product with the intent to conduct a chemical or other analysis of the psilocybin or psilocybin product.

(7) "Independent psilocybin testing laboratory agent" means an individual who holds a valid psilocybin production establishment agent registration card with a psilocybin testing laboratory designation.

(8) "Inventory control system" means a system described in Section 4-41b-103.

(9) "Licensing board" means the Psilocybin Production Establishment Licensing Board created in Section [4-41c-101](#).

(10) "Patient" means an individual for whom a qualified medical psilocybin provider recommends psilocybin.

(11) "Psilocybin" means any fresh mushroom containing psilocybin or psilocin.

(12) (a) "Psilocybin biomass" means any part of a psilocybin-containing fungus.

(b) "Psilocybin biomass" includes any part of the psilocybin-containing fungus that is:

(i) intended for sale; or

(ii) a psilocybin byproduct.

(13) "Psilocybin byproduct" means any portion of a psilocybin-containing fungus which is not used or intended for sale.

(14) "Psilocybin cultivation facility" means a person that:

(a) possesses psilocybin;

(b) grows or intends to grow psilocybin; and

(c) sells or intends to sell psilocybin to a qualified therapy provider.

(15) "Psilocybin cultivation facility agent" means an individual who holds a valid psilocybin production establishment agent registration card with a cultivation facility designation.

(16) "Psilocybin product" means any portion of a psilocybin-containing mushroom that:

(a) has been dried; and

(b) is intended for oral consumption by a patient.

(17) "Psilocybin production establishment" means a psilocybin cultivation facility or an independent psilocybin testing laboratory.

(18) "Psilocybin production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a psilocybin production establishment agent; and

(b) designates the type of psilocybin production establishment for which an individual is authorized to act as an agent.

(19) "Qualified medical psilocybin provider" means the same as that term is defined in Section [26B-4-901](#).

(20) "Qualified therapy provider" means the same as that term is defined in Section [26B-4-901](#).

(21) "Qualified therapy provider location" means the same as that term is defined in Section [26B-4-901](#).

Section 3. Section **4-41c-102** is enacted to read:

**4-41c-102. Inventory control system.**

(1) Each psilocybin production establishment and qualified therapy provider shall maintain an inventory control system that meets the requirements of this section.

(2) Each psilocybin production establishment and qualified therapy provider shall ensure that the inventory control system:

(a) tracks psilocybin and psilocybin product using a unique identifier, in real time, from the time psilocybin is ready to be harvested;

(b) maintains in real time a record of the amount of psilocybin or psilocybin product in the possession of the establishment or provider;

(c) includes a video recording system that:

(i) tracks all handling and processing of psilocybin or psilocybin product in the establishment or provider location;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days.

(3) A psilocybin production establishment or qualified therapy provider shall allow the

following to access the establishment's or provider's inventory control system at any time:

(a) the department;

(b) the Department of Health and Human Services; and

(c) a financial institution that the Division of Finance validates, in accordance with Subsection (6).

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of psilocybin before being tracked in an inventory control system described in this section.

(6) The Division of Finance shall, in consultation with the state treasurer:

(a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish a process for validating financial institutions for access to an inventory control system in accordance with Subsections (2) and (7); and

(ii) establish qualifications for the validation described in Subsection (6)(a)(i);

(b) review an application received by the Division of Finance in accordance with the process established under Subsection (6)(a);

(c) validate a financial institution that meets the qualifications described in Subsection (6)(a); and

(d) provide a list of validated financial institutions to the department and the Department of Health and Human Services.

(7) A financial institution that the Division of Finance validates under Subsection (6):

(a) may only access an inventory control system for the purpose of reconciling transactions and other financial activity of the psilocybin production establishments that use financial services that the financial institution provides;

(b) may only access information related to financial transactions; and

(c) may not access any identifying patient information.

Section 4. Section **4-41c-103** is enacted to read:

214 **4-41c-103. Severability clause.**

215 (1) If a final decision of a court of competent jurisdiction holds invalid any provision  
216 of this chapter or the application of any provision of this chapter to any person or circumstance,  
217 the remaining provisions of this chapter remain effective without the invalidated provision or  
218 application.

219 (2) The provisions of this chapter are severable.

220 Section 5. Section **4-41c-104** is enacted to read:

221 **4-41c-104. Notice to prospective and current public employees.**

222 (1) Before giving a current employee an assignment or duty that arises from or directly  
223 relates to an obligation under this chapter or hiring a prospective employee whose assignments  
224 or duties would include an assignment or duty that arises from or directly relates to an  
225 obligation under this chapter, a state employer or a political subdivision employer shall give the  
226 employee a written notice stating that:

227 (a) the employee's or prospective employee's job duties may require the employee or  
228 prospective employee to engage in conduct which is in violation of the criminal laws of the  
229 United States; and

230 (b) in accepting a job or undertaking a duty described in this subsection, although the  
231 employee or prospective employee is entitled to the protection of Title 67, Chapter 21, Utah  
232 Protection of Public Employees Act, the employee may not object or refuse to carry out an  
233 assignment or duty that may be a violation of the criminal laws of the United States with  
234 respect to the manufacture, sale, or distribution of psilocybin.

235 (2) The Division of Human Resources Management shall create, revise, and publish  
236 the form of the notice described in Subsection (1)(a).

237 (3) Notwithstanding Subsection [67-21-3\(3\)](#), an employee who has signed the notice  
238 described in Subsection (1) may not:

239 (a) claim in good faith that the employee's actions violate or potentially violate the laws  
240 of the United States with respect to the manufacture, sale, or distribution of psilocybin; or

241 (b) refuse to carry out a directive that the employee reasonably believes violates the  
242 criminal laws of the United States with respect to the manufacture, sale, or distribution of  
243 psilocybin.

244 (4) An employer of an employee who has signed the notice described in Subsection



(1)(a) may not take retaliatory action as defined in Section [67-19a-101](#) against a current employee who refuses to sign the notice described in Subsection (1)(a).

Section 6. Section **4-41c-201** is enacted to read:

**Part 2. Psilocybin Production Establishment**

**4-41c-201. Psilocybin Production Establishment Licensing Board.**

(1) There is created within the department the Psilocybin Production Establishment Licensing Board.

(2) (a) The commissioner shall:

(i) appoint the members of the board;

(ii) submit the name of each individual that the commissioner appoints under Subsection (2)(a) to the governor for confirmation or rejection; and

(iii) if the governor rejects an appointee that the commissioner submits under Subsection (2)(b), appoint another individual in accordance with Subsection (2).

(b) Except as provided in Subsection (3)(c), the board shall consist of seven members consisting of:

(i) one member of the public with knowledge of psilocybin;

(ii) one member with knowledge and experience in the pharmaceutical or nutraceutical manufacturing industry;

(iii) one member representing law enforcement;

(iv) one member whom an organization representing patients recommends;

(v) one member who is a chemist or researcher with experience with psilocybin and who is associated with a research university;

(vi) one member who has a background in psilocybin cultivation and processing; and

(vii) the commissioner or the commissioner's designee.

(c) The commissioner or the commissioner's designee shall serve as the chair of the board.

(d) An individual is not eligible for appointment to be a member of the board if the individual:

(i) has any commercial or ownership interest in a psilocybin production establishment;

(ii) has an owner, officer, director, or employee whose family member holds a license or has an interest in a psilocybin production establishment; or

(iii) is employed or contracted to lobby on behalf of any psilocybin production establishment.

(3) (a) Except as provided in Subsection (3)(b), a voting board member shall serve a term of four years, beginning July 1 and ending June 30.

(b) Notwithstanding Subsection (3)(a), for the initial appointments to the board, the commissioner shall stagger the length of the terms of board members to ensure that the commissioner appoints two or three board members every two years.

(c) As a board member's term expires:

(i) the board member is eligible for reappointment; and

(ii) the commissioner shall make an appointment, in accordance with Subsection (2), for the new term before the end of the member's term.

(d) When a vacancy occurs on the board for any reason other than the expiration of a board member's term, the commissioner shall appoint a replacement to the vacant position, in accordance with Subsection (2), for the unexpired term.

(e) In making appointments, the commissioner shall ensure that no two members of the board are employed by or represent the same company or nonprofit organization.

(f) The commissioner may remove a board member for cause, neglect of duty, inefficiency, or malfeasance.

(4) (a) Four members of the board constitute a quorum of the board.

(b) An action of the majority of the board members when a quorum is present constitutes an action of the board.

(c) The department shall provide staff support to the board.

(d) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section [63A-3-106](#);

(ii) Section [63A-3-107](#); and

(iii) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and [63A-3-107.6](#).

(5) The board shall:

(a) meet as called by the chair to review psilocybin production establishment license applications;

(b) review each license application for compliance with:  
(i) this chapter; and  
(ii) department rules;  
(c) conduct a public hearing to consider a license application;  
(d) approve the department's license application forms and checklists; and  
(e) make a determination on each license application.  
(6) The board shall hold a public hearing to review a psilocybin production establishment's license if the establishment:  
(a) changes ownership by an interest of at least 20%;  
(b) changes or adds a location;  
(c) upgrades to a different licensing tier under department rule; or  
(d) as necessary based on the recommendation of the department.  
(7) (a) The board shall meet annually in December to consider psilocybin production establishment license renewal applications.  
(b) During the meeting described in Subsection (7)(a):  
(i) a representative from each applicant for renewal shall:  
(A) attend in person or electronically; or  
(B) submit information before the meeting, as the board may require, for the board's consideration; and  
(ii) the board shall consider, for each psilocybin cultivation facility seeking renewal, information related to the license renewal, including:  
(A) the amount of biomass the licensee produces during the current calendar year;  
(B) the amount of biomass the licensee projects to produce during the following year;  
(C) the current square footage of growing area the licensee uses; and  
(D) the square footage of growing area the licensee projects to use in the following year.  
(c) The information a licensee or license applicant provides to the board for a license determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the applicant or licensee provides the board with the information regarding business confidentiality required in Section 63G-2-309.  
Section 7. Section **4-41c-202** is enacted to read:

**4-41c-202. Psilocybin production establishment-- License.**

(1) A person may not operate a psilocybin production establishment without a license that the licensing board issues under this chapter.

(2) (a) Subject to this section and Section [4-41c-206](#), the department, through the licensing board, shall issue licenses in accordance with Section [4-41c-201](#).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(i) solicit applications for a license under this section;

(ii) allow for comments and questions in the development of applications;

(iii) timely and objectively evaluate applications; and

(iv) hold public hearings that the department deems appropriate.

(c) The licensing board may not issue a license to operate a psilocybin production establishment to an applicant who is not eligible for a license under this section.

(d) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(e) and in accordance with Subsection [4-41c-406\(2\)\(a\)](#), the following information regarding:

(A) for an independent psilocybin testing laboratory license, the proposed name and the address where the laboratory will be located; or

(B) for a psilocybin cultivation facility license, the proposed name and no more than two addresses for where the facility will be located;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed psilocybin production establishment;

(B) for a privately held company, a financial or voting interest in the proposed psilocybin production establishment; or

(C) the power to direct the management or control of a proposed psilocybin production establishment;

(iii) an operating plan that:

(A) complies with Section [4-41b-205](#);

(B) includes operating procedures that comply with this chapter and any law the

municipality or county in which the person is located adopts that is consistent with Section [4-41b-406](#); and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) \$100,000 for each psilocybin cultivation facility license for which the applicant applies; or

(B) \$50,000 for each independent psilocybin testing laboratory license for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection [4-41a-104\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

(vi) a description of any investigatory or adverse action taken by a licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's psilocybin-related operations or businesses.

(e) (i) A person may not locate a psilocybin production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 500 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(e)(i) shall be measured from the nearest entrance to the psilocybin production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(e)(i) by up to 20% if the licensing board determines that it is not reasonably feasible to the applicant to site the proposed psilocybin production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(e).

(3) If the licensing board approves an application for a license under this section:

(a) the applicant shall pay the department an initial license fee in an amount that,

subject to Subsection [4-41a-104\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(d)(ii).

(4) (a) A psilocybin production establishment shall obtain a separate license for each location.

(b) A psilocybin production establishment may be located at the same location as a cannabis production establishment if a separate license is obtained for each.

(5) If the licensing board receives more than one application for a psilocybin production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent psilocybin testing laboratory to a person who:

(a) holds a license or has an ownership interest to operate a psilocybin cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a psilocybin cultivation facility; or

(c) proposes to operate the independent psilocybin testing laboratory at the same location as a psilocybin cultivation facility.

(7) The license board may not issue a license to operate a psilocybin production establishment to an applicant if any individual described in Subsection (2)(d)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(8) If an applicant for a psilocybin production establishment license under this section holds a license under Title 4, Chapter 41a, Cannabis Production Establishments, the licensing board may give preference to the applicant if:

(a) the applicant demonstrates that a decrease in psilocybin costs to patients is more likely to result from efficiencies and economies of scale than from a more competitive

431 marketplace; and

432 (b) the licensing board finds other factors which also support granting the new license.

433 (9) The licensing board may revoke a license under this part:

434 (a) if the psilocybin production establishment does not begin operations within one  
435 year after the day on which the licensing board issues the initial license;

436 (b) after the third of the same violation of this chapter in any of the licensees licensed  
437 psilocybin production establishments;

438 (c) if any individual described in Subsection (2)(d)(ii) is convicted, while the license is  
439 active, under state or federal law of:

440 (i) a felony; or

441 (ii) after December 3, 2018, a misdemeanor for drug distribution;

442 (d) if the licensee fails to provide the information described in Subsection (2)(d)(vi) at  
443 the time of application, or fails to supplement the information described in Subsection  
444 (2)(d)(vi) with any investigation or adverse action that occurs after the submission of the  
445 application within 14 calendar days after the day on which the licensee receives notice of the  
446 investigation or adverse action;

447 (e) if the psilocybin production establishment demonstrates a willful or reckless  
448 disregard for the requirements of this chapter or the rules the department makes in accordance  
449 with this chapter;

450 (f) if after a change of ownership described in Subsection (19), the board determines  
451 that the psilocybin production establishment no longer meets the minimum standards for  
452 licensure and operation of the psilocybin production establishment described in the chapter; or

453 (g) for an independent psilocybin testing laboratory, if the independent psilocybin  
454 testing laboratory fails to substantially meet the performance standards described in  
455 Subsections (16) and (17).

456 (10) If the municipality or county where the licensed psilocybin production  
457 establishment will be located requires a local land use permit, a person who receives a  
458 psilocybin production establishment license under this chapter shall submit to the licensing  
459 board a copy of the licensee's approved land use permit within 120 days after the day on which  
460 the licensing board issues the license.

461 (11) The department shall deposit the proceeds of a fee imposed under this section into

the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on July 1, 2024.

(13) The licensing board's authority to issue a license under this section is plenary and is not subject to review.

(14) Notwithstanding Subsection (2)(b), the decision of the licensing board to award a license to an applicant is not subject to:

(a) Title 63G, Chapter 6a, Part 16, Protests; or

(b) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(15) (a) Notwithstanding this section, the licensing board may not issue more than four licenses to operate an independent psilocybin testing laboratory.

(b) The department may operate or partner with a research university to operate an independent psilocybin testing laboratory.

(c) If the department operates or partners with a research university to operate an independent psilocybin testing laboratory, the department may not cease operating or partnering with a research university to operate the independent psilocybin testing laboratory unless:

(i) the department issues at least two licenses to independent psilocybin laboratories;

and

(ii) the department has ensured that the licensed independent psilocybin testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical psilocybin market.

(d) The department shall resume independent psilocybin testing laboratory operations at any time if:

(i) the department at any time operated or partnered with a research university to operate an independent psilocybin testing laboratory under Subsection (15)(b); and

(ii) (A) fewer than two licensed independent psilocybin testing laboratories are operating; or

(B) as determined by the department, the licensed independent psilocybin testing laboratories become unable to fully meet the market demand for testing.

(16) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an



independent psilocybin testing laboratory, including deadlines for testing completion.

(17) A license that the licensing board issues to an independent psilocybin testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (16), as determined by the board.

(18) A psilocybin production establishment license is not transferable or assignable.

(19) (a) If ownership of a psilocybin production establishment changes by 50% or more, the psilocybin production establishment shall submit a new application described in Subsection (2)(d).

(b) Within 30 days of the submission of the application under Subsection (19)(a), the board shall:

(i) conduct the application review described in Subsection 4-41c-201(6); and

(ii) award a license to the psilocybin production establishment for the remainder of the term of the psilocybin production establishment's license before the ownership change if the psilocybin production establishment meets the minimum standards for licensure and operation described in this chapter.

(c) If the board approves the license application under Subsection (19)(b), notwithstanding Subsection (3), the psilocybin production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 8. Section 4-41c-203 is enacted to read:

**4-41c-203. Psilocybin production establishment owners and directors -- Criminal background checks.**

(1) Each applicant for a license as a psilocybin production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notification for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section [63J-1-504](#) for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 9. Section **4-41c-204** is enacted to read:

**4-41c-204. Renewal.**

The licensing board shall renew a license issued under Section [4-41c-201](#) every year if:

(1) the licensee meets the requirements of Section [4-41b-202](#) at the time of renewal;

(2) the board does not identify:

(a) a significant failure of compliance with this chapter or department rules in the review described in Section [4-41c-201](#); or

(b) grounds for revocation described in Subsection [4-41c-202](#)(9);

555           (3) the licensee pays the department a license renewal fee in an amount that, subject to  
556           Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

557           (4) the department approves the new operating plan if the psilocybin production  
558           establishment made changes to the operating plan described in Section 4-41b-205 that the  
559           department or licensing board approved under Subsection 4-41b-202(2)(d)(iii).

560           Section 10. Section **4-41c-205** is enacted to read:

561           **4-41c-205. Operating plan.**

562           (1) A person applying for a psilocybin production establishment license or license  
563           renewal shall submit to the department for the department's review a proposed operating plan  
564           that complies with this section and that includes:

565           (a) a description of the physical characteristics of the proposed facility or, for a  
566           psilocybin cultivation facility, no more than two facility locations, including a floor plan and an  
567           architectural elevation;

568           (b) a description of the credentials and experience of:

569           (i) each officer, director, and owner of the proposed psilocybin production  
570           establishment; and

571           (ii) any highly skilled or experienced prospective employee;

572           (c) the psilocybin production establishment's employee training standards;

573           (d) a security plan;

574           (e) a description of the psilocybin production establishment's inventory control system;

575           (f) storage protocols, to ensure that psilocybin is stored in a manner that is sanitary and  
576           preserves the integrity of the psilocybin;

577           (g) for a psilocybin cultivation facility, the information described in Subsection (2);

578           and

579           (h) for an independent psilocybin testing laboratory, the information described in  
580           Subsection (3).

581           (2) (a) A psilocybin cultivation facility shall ensure that the facility's operating plan  
582           includes the facility's intended:

583           (i) psilocybin cultivation practices, including the facility's intended pesticide and  
584           fertilizer use; and

585           (ii) subject to Subsection (2)(b), square footage under cultivation and anticipated

psilocybin yield.

(b) Except as provided in Subsection (2)(c), a psilocybin cultivation facility may not use more than 5,000 total square feet of cultivation space.

(c) Each licensee may apply to the department for:

(i) a one-time permanent increase of up to 20% of the limitation of the psilocybin cultivation facility's cultivation space; or

(ii) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the psilocybin cultivation facility's cultivation space.

(d) After conducting a review equivalent to the review described in Subsection 4-41c-206(2), if the department determines that additional cultivation is needed, the department may:

(i) grant the one-time, permanent increase described in Subsection (2)(c)(i); or

(ii) grant the short-term increase described in Subsection (2)(c)(ii).

(e) If a licensee describes an intended square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b), the licensee may not cultivate more than the licensee's identified intended square footage under cultivation.

(f) The department may authorize a psilocybin cultivation facility to operate at no more than two separate locations.

(g) If the department authorizes multiple locations under Subsection (2)(f), the two psilocybin cultivation facility locations combined may not exceed the cultivation limitations described in Subsection (2)(b).

(3) An independent psilocybin testing laboratory's operating plan shall include the laboratory's intended:

(a) psilocybin and psilocybin product testing capacity;

(b) psilocybin and psilocybin product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing psilocybin or psilocybin product.

(4) Notwithstanding an applicant's proposed operating plan, a psilocybin production establishment is subject to land use regulations, as described in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Section 11. Section 4-41c-206 is enacted to read:

**4-41c-206. Number of licenses for psilocybin cultivation facilities.**

(1) Except as provided in Subsection (2), the licensing board shall issue at least five but not more than eight licenses to operate a psilocybin cultivation facility.

(2) The licensing board may issue a number of licenses to operate a psilocybin cultivation facility that, in addition to the licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for psilocybin, that each additional license is necessary to provide an adequate supply, quality, or variety of medical psilocybin to patients to whom psilocybin is recommended.

(3) If the recipient of one of the initial licenses described in Subsection (1) ceases operations for any reason or otherwise abandons the license, the licensing board may grant the vacant license to another applicant based on an analysis as described in Subsection (2).

(4) If there are more qualified applicants than the number of available licenses of psilocybin cultivation facilities under Subsections (1) and (2), the licensing board shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves:

(i) complying with a regulatory environment;

(ii) tracking inventory; and

(iii) training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can increase efficiency and reduce the cost to patients of medical psilocybin.

(5) The licensing board may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 12. Section **4-41c-301** is enacted to read:

**Part 3. Psilocybin Production Establishment Agents****4-41c-301. Psilocybin production establishment agent -- Registration.**

648 (1) An individual may not act as a psilocybin production establishment agent unless the  
649 department registers the individual as a psilocybin production establishment agent, regardless  
650 of whether the individual is a seasonal, temporary, or permanent employee.

651 (2) The following individuals, regardless of the individual's status as a qualified  
652 medical psilocybin provider, may not serve as a psilocybin production establishment agent,  
653 have a financial or voting interest of 2% or greater in a psilocybin production establishment, or  
654 have the power to direct or cause the management or control of a psilocybin production  
655 establishment:

656 (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
657 Practice Act;

658 (b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
659 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

660 (c) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant  
661 Act.

662 (3) An independent psilocybin testing laboratory agent may not act as an agent for a  
663 psilocybin cultivation facility.

664 (4) (a) The department shall, within 15 business days after the day on which the  
665 department receives a complete application from a psilocybin production establishment on  
666 behalf of a prospective psilocybin production establishment agent, register and issue a  
667 psilocybin production establishment agent registration card to the prospective agent if the  
668 psilocybin production establishment:

669 (i) provides to the department:

670 (A) the prospective agent's name and address; and

671 (B) the submission required under Subsection (4)(b); and

672 (ii) pays a fee to the department in an amount that, subject to Subsection [4-41a-104\(5\)](#),  
673 the department sets in accordance with Section [63J-1-504](#).

674 (b) Each prospective agent described in Subsection (4)(a) shall:

675 (i) submit to the department:

676 (A) a fingerprint card in the form acceptable to the Department of Public Safety; and

677 (B) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the  
678 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

679 Generation Identification System; and

680 (ii) consent to a fingerprint background check by:

681 (A) the Bureau of Criminal Identification; and

682 (B) the Federal Bureau of Investigation.

683 (c) The Bureau of Criminal Identification shall:

684 (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against  
685 the applicable state, regional, and national criminal records databases, including the Federal  
686 Bureau of Investigation Next Generation Identification System;

687 (ii) report the results of the background check to the department;

688 (iii) maintain a separate file of fingerprints that prospective agents submit under  
689 Subsection (4)(b) for search by future submissions to the local and regional criminal records  
690 databases, including latent prints;

691 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
692 Generation Identification System's Rap Back Service for search by future submissions to  
693 national criminal records databases, including the Next Generation Identification System and  
694 latent prints; and

695 (v) establish a privacy risk mitigation strategy to ensure that the department only  
696 receives notifications for an individual with whom the department maintains an authorizing  
697 relationship.

698 (d) The department shall:

699 (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an  
700 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the  
701 Bureau of Criminal Identification or another authorized agency provides under this section; and

702 (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal  
703 Identification.

704 (5) The department shall designate, on an individual's psilocybin production  
705 establishment agent registration card the type of psilocybin production establishment for which  
706 the individual is authorized to act as an agent.

707 (6) A psilocybin production establishment agent shall comply with:

708 (a) a certification standard that the department develops; or

709 (b) a certification standard that the department has reviewed and approved.

(7) The department shall ensure that the certification standard described in Subsection (6) includes training:

(a) in Utah medical psilocybin law;

(b) for a psilocybin cultivation facility agent, in psilocybin cultivation best practices;

and

(c) for an independent psilocybin testing laboratory agent, in psilocybin testing best practices.

(8) For an individual who holds or applies for a psilocybin production establishment registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9) (a) A psilocybin production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A psilocybin production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a psilocybin production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection [4-41a-104](#)(5), the department sets in accordance with Section [63J-1-504](#); and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 13. Section **4-41c-302** is enacted to read:

**4-41c-302. Psilocybin production establishment agent registration card --**  
**Rebuttable presumption.**



(1) A psilocybin production establishment agent whom the department registers under Section 4-41c-301 shall carry the individual's psilocybin production card with the agent at all times when:

(a) the agent is on the premises of a psilocybin production establishment where the agent is registered; or

(b) the agent is transporting psilocybin or psilocybin product between:

(i) two psilocybin production establishments; or

(ii) a psilocybin production establishment and a qualified therapy provider location.

(2) If a psilocybin processing facility agent possesses psilocybin or psilocybin product and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a psilocybin production establishment, or transporting psilocybin or psilocybin product in compliance with Subsection (1):

(a) there is a rebuttable presumption that the agent possesses the psilocybin or psilocybin product legally; and

(b) a law enforcement officer does not have probable cause, based solely on the agent's possession of the psilocybin or psilocybin product in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) (a) A psilocybin production establishment agent who fails to carry the agent's psilocybin production establishment registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) subject to a \$100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) The prosecuting entity shall notify the department and the relevant psilocybin production establishment of each conviction under Subsection (3)(a).

(c) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant psilocybin production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 14. Section **4-41c-401** is enacted to read:

**Part 4. General Psilocybin Production Establishment Operating Requirements**

**4-41c-401. Psilocybin production establishment -- General operating requirements.**

(1) (a) A psilocybin production establishment shall operate in accordance with the operating plan described in Section [4-41c-205](#).

(b) A psilocybin production establishment shall notify the department before a change in the psilocybin production establishment's operating plan.

(c) If a psilocybin production establishment changes the psilocybin production establishment's operating plan, the psilocybin production establishment shall ensure that the new operating plan complies with this chapter.

(d) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:

(i) review a change notification described in Subsection (1)(b);

(ii) identify for the psilocybin production establishment each point of noncompliance between the new operating plan and this chapter;

(iii) provide an opportunity for the psilocybin production establishment to address each identified point of noncompliance; and

(iv) suspend or revoke a license if the psilocybin production establishment fails to cure the noncompliance.

(2) A psilocybin production establishment shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid psilocybin production establishment agent registration card issued under Section [4-41c-301](#); and

(b) at the physical address provided to the department under Subsection [4-41c-202](#)(d)(i).

(3) A psilocybin production establishment may not employ an individual who is younger than 21 years old.

(4) A psilocybin production establishment may not employ an individual who has been convicted, under state or federal law, of:

(a) a felony; or

(b) after December 3, 2018, a misdemeanor for drug distribution.

(5) A psilocybin production establishment may authorize an individual who is at least 18 years old and is not a psilocybin production establishment agent to access the psilocybin production establishment if the psilocybin production establishment:

(a) tracks and monitors the individual at all times while the individual is at the psilocybin production establishment; and

(b) maintains a record of the individual's access, including arrival and departure.

(6) A psilocybin production establishment shall operate in a facility that has:

(a) a single, secure public entrance; and

(b) a security system with a backup power source that:

(i) detects and records entry into the psilocybin production establishment;

(ii) provides notice of an unauthorized entry to law enforcement when the psilocybin production establishment is closed; and

(iii) has a lock or equivalent restrictive security feature on any area where the psilocybin production establishment stores psilocybin or a psilocybin product.

Section 15. Section **4-41c-402** is enacted to read:

**4-41c-402. Inspections.**

(1) The department may inspect the records and facility of a psilocybin production establishment at any time during business hours to determine if the psilocybin production establishment complies with this chapter.

(2) (a) An inspection under this section may include:

(i) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(ii) questioning of any relevant individual;

(iii) observation of an independent psilocybin testing laboratory's methods, standards, practices, and procedures;

(iv) the taking of a specimen of psilocybin or psilocybin product sufficient for testing purposes; or

(v) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(b) Notwithstanding Section 4-41c-404, an authorized department employee may possess and transport a specimen of psilocybin or psilocybin product for testing described in Subsection (2)(a).

(3) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electrical information, including financial data, sales data, shipping data, pricing data, and employee data.

(4) Failure to provide the department or the department's authorized agents immediate access to the records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 16. Section **4-41c-403** is enacted to read:

**4-41c-403. Advertising.**

(1) Except as provided in this section, a psilocybin production establishment may not advertise to the general public in any medium.

(2) A psilocybin production establishment may advertise an employment opportunity at the psilocybin production establishment.

(3) A psilocybin production establishment may maintain a website that:

(a) contains information about the psilocybin production establishment and employees;  
and

(b) does not advertise any medical psilocybin or psilocybin product.

(4) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a psilocybin production establishment may use signage on the outside of the psilocybin production establishment that:

(i) includes, only in accordance with Subsection (4)(b), the psilocybin production

establishment's name, logo, and hours of operation; and

(ii) complies with local ordinances regulating signage.

(b) The department shall define standards for a psilocybin production establishment's name and logo to ensure a medical rather than recreational disposition.

(5) (a) A psilocybin production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A psilocybin production establishment may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical Cannabis Act;

(ii) any gift or merchandise other than educational materials, as those terms are defined by the department;

(iii) any statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a psilocybin production establishment agent;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Section 17. Section **4-41c-404** is enacted to read:

**4-41c-404. Medical psilocybin transportation.**

(1) Only the following individuals may transport psilocybin or a psilocybin product:

896 (a) a registered psilocybin production establishment agent;  
897 (b) a qualified therapy provider; or  
898 (c) a registered qualified therapy provider agent.  
899 (2) An individual transporting psilocybin or psilocybin product under this chapter  
900 shall:  
901 (a) be employed by the person authorizing the transportation; and  
902 (b) possess a transportation manifest that:  
903 (i) includes a unique identifier that links the psilocybin or psilocybin product to a  
904 relevant inventory control system;  
905 (ii) includes origin and destination information for any psilocybin or psilocybin product  
906 that the individual is transporting; and  
907 (iii) identifies the departure and arrival times of the individual transporting the  
908 psilocybin or psilocybin product.  
909 (3) (a) It is unlawful for a registered psilocybin production establishment to make a  
910 transport described in this section with a manifest that does not meet the requirements of this  
911 section.  
912 (b) Except as provided in Subsection (3)(d), an agent who violates Subsection (3)(a) is:  
913 (i) guilty of an infraction; and  
914 (ii) subject to a \$100 fine.  
915 (c) An individual who is guilty of a violation described in Subsection (3)(b) is not  
916 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
917 underlying the violation described in Subsection (3)(b).  
918 (d) If the agent described in Subsection (2) is transporting more psilocybin or  
919 psilocybin product than the manifest identifies, except for a de minimis administrative error:  
920 (i) the penalty described in Subsection (3)(b) does not apply; and  
921 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled  
922 Substances Act.  
923 (4) Nothing in this section prevents the department from taking administrative  
924 enforcement action against a psilocybin production establishment or another person for failing  
925 to make a transport in compliance with this section.  
926 Section 18. Section **4-41c-405** is enacted to read:

**4-41c-405. Excess and disposal.**

(1) As used in the section, "psilocybin waste" means waste and unused material from the cultivation and production of psilocybin or psilocybin product under this chapter.

(2) A psilocybin production establishment shall:

(a) render psilocybin waste unusable and unrecognizable before transporting it from the psilocybin production establishment; and

(b) dispose of psilocybin waste in accordance with:

(i) federal and state laws, rules, and regulation related to hazardous waste;

(ii) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(iv) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An individual may not transport or dispose of medical psilocybin waste other than as provided in this section.

Section 19. Section **4-41c-406** is enacted to read:

**4-41c-406. Local control.**

(1) As used in this section:

(a) "Land use decision" means the same as that term is defined in Sections [10-9a-103](#) and [17-27a-103](#).

(b) "Land use permit" means the same as that term is defined in Sections [10-9a-103](#) and [17-27a-103](#).

(c) "Land use regulation" means the same as that term is defined in Sections [10-9a-103](#) and [17-271-103](#).

(2) (a) If a municipality's or a county's zoning ordinances provide for an industrial zone, the operation of a psilocybin production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a psilocybin production establishment, at least one industrial zone in which the operation of a psilocybin production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinance provides for an agricultural zone, the operation of a psilocybin production establishment shall be a permitted agricultural use in

any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a psilocybin production establishment, at least one agricultural zone in which the operation of a psilocybin production establishment is a permitted use.

(c) The operation of a psilocybin production establishment shall be a permitted use on land that the municipality or county has not zoned.

(3) A municipality or county may not:

(a) on the sole basis that the applicant or psilocybin production establishment violates federal law regarding the legal status of psilocybin, deny or revoke:

(i) a land use permit to operate a psilocybin production facility; or

(ii) a business license to operate a psilocybin production facility;

(b) require a certain distance between a psilocybin production establishment and:

(i) another psilocybin production establishment;

(ii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iii) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a psilocybin production establishment that was not in effect on the day on which the psilocybin production establishment submitted a complete land use application.

(4) An applicant for a land use permit to operate a psilocybin production establishment shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Section 20. Section 4-41c-501 is enacted to read:

#### **Part 5. Psilocybin Cultivation Facility**

##### **4-41c-501. Growing and harvesting.**

(1) A psilocybin cultivation facility shall use a unique identifier that is connected to the facility's inventory control system to identify:

(a) each unique harvest of psilocybin;

(b) each batch of psilocybin that the facility transfers to an independent psilocybin testing laboratory; and

(c) any excess, contaminated, or deteriorated psilocybin of which the psilocybin



cultivation facility disposes.

(2) A psilocybin cultivation facility shall identify psilocybin biomass as psilocybin byproduct or psilocybin product before transferring the psilocybin biomass from the facility.

(3) A psilocybin cultivation facility shall destroy psilocybin cultivation byproduct in accordance with Section [4-41-405](#).

Section 21. Section **4-41c-502** is enacted to read:

**4-41c-502. Sales.**

(1) A psilocybin cultivation facility may not sell a product other than, subject to this chapter:

(a) a psilocybin product; or

(b) an educational material related to the medical use of psilocybin.

(2) A psilocybin cultivation facility may only sell an item listed in Subsection (1) to:

(a) a qualified therapy provider; or

(b) a registered agent of a qualified therapy provider.

Section 22. Section **4-41c-601** is enacted to read:

**Part 6. Independent Psilocybin Testing Laboratories**

**4-41c-601. Psilocybin and psilocybin product testing.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(a) determine required adulterant tests for psilocybin or psilocybin product;

(b) determine the amount of any adulterant that is safe for human consumption; or

(c) establish protocols for a recall of psilocybin or psilocybin product by a psilocybin production establishment.

(2) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(3) A psilocybin production establishment may not transfer psilocybin or psilocybin product to a qualified therapy provider until an independent psilocybin testing laboratory tests a representative sample of the psilocybin or psilocybin product in accordance with department rule.

(4) Before the sale of a psilocybin product, an independent psilocybin testing laboratory shall identify and quantify the amount of active psilocybin present in a psilocybin product.

(5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of psilocybin and psilocybin products by independent psilocybin laboratories.

(6) The department may require an independent psilocybin testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 23. Section **4-41c-602** is enacted to read:

**4-41c-602. Reporting -- Inspections --Seizure by the department.**

(1) If an independent psilocybin testing laboratory determines that the results of a lab test indicate that a psilocybin or psilocybin product batch may be unsafe for human use:

(a) the independent psilocybin testing laboratory shall report the results and the psilocybin product batch to:

(i) the department; and

(ii) the psilocybin cultivation facility from which the batch originated;

(b) the department shall place a hold on the psilocybin or psilocybin products to:

(i) investigate the cause of the defective batch; and

(ii) make a determination; and

(c) the psilocybin cultivation facility that grew the psilocybin may appeal the determination described in Subsection (1)(b)(ii) to the department.

(2) If the department determines, under Subsection (1)(b)(ii) or following an appeal under Subsection (1)(c), that psilocybin or psilocybin product prepared by a psilocybin cultivation establishment is unsafe for human consumption, the department may seize, embargo, or destroy, in the same manner as the psilocybin production establishment under Section [4-41b-405](#), the psilocybin or psilocybin product batch.

(3) If an independent psilocybin testing laboratory determines that the results of a lab test indicate that the active psilocybin content of psilocybin or a psilocybin product batch diverges more than 10% from the amount the label indicates, the psilocybin processing facility may not sell the psilocybin or psilocybin product batch unless the facility replaces the incorrect

1051 label with a label that correctly indicates the active psilocybin content.

1052 Section 24. Section **4-41c-701** is enacted to read:

1053 **Part 7. Enforcement**

1054 **4-41c-701. Enforcement -- Fine -- Citation.**

1055 (1) If a person that is a psilocybin production establishment or a psilocybin production  
1056 establishment agent violates this chapter, the department may:

1057 (a) revoke the person's license or psilocybin production establishment agent  
1058 registration card;

1059 (b) decline to renew the person's license or psilocybin production establishment agent  
1060 registration card; or

1061 (c) assess the person an administrative penalty that the department establishes by rule  
1062 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1063 (2) The department shall deposit an administrative penalty imposed under this section  
1064 into the General Fund.

1065 (3) (a) The department may take an action described in Subsection (3)(b) if the  
1066 department concludes upon investigation that, for a person that is a psilocybin production  
1067 establishment or psilocybin production establishment agent:

1068 (i) the person has violated the provisions of this chapter, a rule made under this  
1069 chapter, or an order issued under this chapter; or

1070 (ii) the person produced a psilocybin or psilocybin product batch that contains a  
1071 substance, other than active psilocybin, that poses a significant threat to human health.

1072 (b) If the department makes the determination about a person described in Subsection  
1073 (3)(a), the department shall:

1074 (i) issue the person a written administrative citation;

1075 (ii) attempt to negotiate a stipulated settlement;

1076 (iii) seize, embargo, or destroy the psilocybin or psilocybin product batch;

1077 (iv) order the person to cease and desist from the action that creates a violation; and

1078 (v) direct the person to appear before an adjudicative proceeding conducted under Title  
1079 63G, Chapter 4, Administrative Procedures Act.

1080 (4) The department may, for a person subject to an uncontested citation, a stipulated  
1081 settlement, or a finding of a violation in an adjudicative proceeding under this section, for a

fine amount not already specified in law, assess the person, who is not an individual, a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) The department may not revoke a psilocybin production establishment's license without first directing the psilocybin production establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(7) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or psilocybin production establishment agent registration card; or

(b) suspend, revoke, or place on probation the person's license or psilocybin production establishment agent registration card.

(8) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual:

(i) violates a provision of this chapter, the individual is:

(A) guilty of an infraction; and

(B) subject to a \$100 fine; or

(ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:

(A) guilty of a class B misdemeanor; and

(B) subject to a \$1,000 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

(9) Nothing in this section prohibits the department from referring potential criminal activity to law enforcement.

Section 25. Section **26-61a-109** is amended to read:

**26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.**

1113 (1) There is created an enterprise fund known as the "Qualified Patient Enterprise  
1114 Fund."

1115 (2) The fund created in this section is funded from:

1116 (a) money the department deposits into the fund;

1117 (i) under this chapter; and

1118 (ii) under Title 26B, Chapter 4, Part 9, Utah Medical Psilocybin Act.

1119 (b) appropriations the Legislature makes to the fund; and

1120 (c) the interest described in Subsection (3).

1121 (3) Interest earned on the fund shall be deposited into the fund.

1122 (4) The department may only use money in the fund to fund the department's  
1123 responsibilities under this chapter and Title 26B, Chapter 4, Part 9, Utah Medical Psilocybin  
1124 Act.

1125 (5) The department shall set fees authorized under this chapter and Title 26B, Chapter  
1126 4, Part 9, Utah Medical Psilocybin Act in amounts that the department anticipates are  
1127 necessary, in total, to cover the department's cost to implement this chapter and Title 26B,  
1128 Chapter 4, Part 9, Utah Medical Psilocybin Act.

1129 Section 26. Section **26B-4-901** is enacted to read:

1130 **Part 9. Utah Medical Psilocybin Act**

1131 **26B-4-901. Definitions.**

1132 As used in this part:

1133 (1) "Adverse event" means:

1134 (a) an injury or suspected injury to a patient that results in an escalation of care, harm  
1135 to a patient, or rescue of a patient; and

1136 (b) occurs:

1137 (i) during a psilocybin administration session; or

1138 (ii) within 24 hours from when the administration session ended.

1139 (2) "Community location" means the same as that term is defined in Section [4-41c-101](#).

1140 (3) "Controlled substance database" means the controlled substance database created in  
1141 Section [58-37f-201](#).

1142 (4) "Inventory Control System" means the same as that term is defined in Section  
1143 [4-41c-101](#).

(5) "Patient" means the same as that term is defined in Section [4-41c-101](#).

(6) "Payment provider" means an entity that contracts with a psilocybin production establishment to facilitate transfer of funds between the establishment and another business or individual.

(7) "Psilocybin" means the same as that term is defined in Section [4-41c-101](#).

(8) "Psilocybin administration session" means the time period from when a qualified medical provider administers psilocybin to a patient to the time the patient leaves the qualified therapy provider location.

(9) "Psilocybin cultivation facility" means the same as that term is defined in Section [4-41c-101](#).

(10) "Psilocybin product" means the same as that term is defined in Section [4-41c-101](#).

(11) "Psilocybin production establishment" means the same as that term is defined in Section [4-41c-101](#).

(12) "Psilocybin production establishment agent" means the same as that term is defined in Section [4-41c-101](#).

(13) "Psilocybin production establishment registration card" means the same as that term is defined in Section [4-41c-101](#).

(14) "Qualified medical psilocybin provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with psilocybin under Section [26B-4-904](#).

(15) "Qualified therapy provider" means an individual:

(a) who meets the therapy provider qualifications; and

(b) whom the department registers to administer treatment with psilocybin under Section [26B-4-911](#).

(16) "Qualified therapy provider location" means a facility that:

(a) is located at the address listed under Subsection [26B-4-911\(2\)\(b\)](#);

(b) has a single, secure public entrance;

(c) has a security system with a backup power source that:

(i) detects and records entry into the psilocybin production establishment; and

(ii) provides notice of an unauthorized entry to law enforcement when the psilocybin

1175 production establishment is closed; and  
1176 (d) has a lock or equivalent restrictive security feature on any area where the qualified  
1177 therapy provider location stores psilocybin or psilocybin product.  
1178 (17) "Qualified Patient Enterprise Fund" means the fund created in Section  
1179 26-61a-109.  
1180 (18) "Qualifying condition" means a condition described in Section 26B-4-903.  
1181 (19) "Therapy provider qualifications" means that an individual is licensed as any of  
1182 the following:  
1183 (a) a clinical social worker, certified social worker, or social service worker under Title  
1184 58, Chapter 60, Part 2, Social Work Licensing Act;  
1185 (b) a clinical mental health counselor under Title 58, Chapter 60, Part 4, Clinical  
1186 Mental Health Counselor Licensing Act;  
1187 (c) licensed advanced substance use disorder counselor or a certified advanced  
1188 substance use disorder counselor under Title 58, Chapter 60, Part 5, Substance Use Disorder  
1189 Counselor Act;  
1190 (d) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
1191 Practice Act;  
1192 (e) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act;  
1193 (f) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
1194 58, Chapter 68, Utah Osteopathic Medical Practice Act; or  
1195 (g) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant  
1196 Act.  
1197 (20) "Recommend" or "recommendation" means, for a qualified medical psilocybin  
1198 provider, the act of suggesting the use of medical psilocybin treatment.  
1199 (21) "Recommending qualifications" means that an individual is licensed:  
1200 (a) to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled  
1201 Substances Act; and  
1202 (b) as any of the following:  
1203 (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
1204 Practice Act;  
1205 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title

1206 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1207 (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

1208 Assistant Act.

1209 Section 27. Section **26B-4-902** is enacted to read:

1210 **26B-4-902. Electronic verification system.**

1211 (1) The department, the Department of Agriculture and Food, the Department of Public  
1212 Safety, and the Division of Technology Services shall:

1213 (a) enter into a memorandum of understanding in order to determine the function and  
1214 operation of the state electronic verification system in accordance with Subsection (2);

1215 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah  
1216 Procurement Code, to develop a request for proposals for a third-party provider to develop and  
1217 maintain the state electronic verification system in coordination with the Division of  
1218 Technology Services; and

1219 (c) select a third-party provider who:

1220 (i) meets the requirements contained in the request for proposals issued under  
1221 Subsection (1)(b); and

1222 (ii) may not have any commercial or ownership interest in a psilocybin production  
1223 establishment.

1224 (2) The department, the Department of Agriculture and Food, and the Division of  
1225 Technology Services shall ensure that, on or before July 1, 2024, the state electronic  
1226 verification system described in Subsection (1):

1227 (a) allows a qualified medical psilocybin provider, or an employee described in  
1228 Subsection (3) acting on behalf of the qualified medical psilocybin provider:

1229 (i) to access dispensing information regarding a patient:

1230 (A) with whom the qualified medical psilocybin provider has a provider-patient  
1231 relationship; and

1232 (B) for whom the qualified medical psilocybin provider has recommended or is  
1233 considering recommending psilocybin;

1234 (ii) to electronically recommend or renew a recommendation for psilocybin or a  
1235 psilocybin product in accordance with Subsection [26B-4-909\(4\)\(b\)](#); and

1236 (iii) to connect with an inventory control system that a psilocybin production



1237 establishment uses to track in real time and archive purchases of any psilocybin or psilocybin  
1238 product including:

1239 (A) the date and time each recommendation was filled;

1240 (B) the quantity and type of psilocybin or psilocybin product;

1241 (C) any psilocybin production establishment associated with the psilocybin or  
1242 psilocybin product;

1243 (D) the name of the qualified therapy provider or qualified therapy provider agent who  
1244 took receipt of the psilocybin or psilocybin product; and

1245 (E) the personally identifiable information of the patient for whom the psilocybin was  
1246 recommended; and

1247 (iv) to connect with any commercially available inventory control system that a  
1248 psilocybin production establishment utilizes in accordance with Section [4-41c-102](#) to use data  
1249 that the Department of Agriculture and Food requires by rule, in accordance with Title 63G,  
1250 Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a  
1251 licensee uses to track and confirm compliance;

1252 (b) provides access to:

1253 (i) the department to the extent necessary to carry out the department's functions and  
1254 responsibilities under this title;

1255 (ii) the Department of Agriculture and Food to the extent necessary to carry out the  
1256 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter  
1257 41c, Psilocybin Production Act; and

1258 (iii) the Division of Professional Licensing to the extent necessary to carry out the  
1259 functions and responsibilities related to the participation of the following in the  
1260 recommendation of medical psilocybin:

1261 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
1262 Practice Act;

1263 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
1264 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1265 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant  
1266 Act;

1267 (c) provides access to state or local law enforcement after obtaining a warrant; and

(d) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) An employee of a qualified medical psilocybin provider may access the electronic verification system for a purpose described in Subsection (2)(a) on behalf of the qualified medical psilocybin provider if:

(i) the qualified medical psilocybin provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical psilocybin provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical psilocybin provider may access the electronic verification system for a purpose described in Subsection (2)(a) on behalf of the qualified medical psilocybin provider if:

(i) the qualified medical psilocybin provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) Beginning July 1, 2024, a provider who meets the recommending qualifications may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section [26B-4-914](#); and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the electronic verification system, as

described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this part authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a) or (d) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 28. Section **26B-4-903** is enacted to read:

**26B-4-903. Qualifying condition.**

(1) By designating a particular condition under Subsection (2) for which the use of medical psilocybin to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical psilocybin treatment for the condition; or

(b) a medical psilocybin treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this part, each of the following conditions is a qualifying condition:

(a) depression;

(b) anxiety, if the patient has tried at least one other treatment which has not proven effective;

(c) post-traumatic stress disorder, if the patient has tried at least one other treatment which has not proven effective; and

(d) a condition where the individual is receiving hospice care.

Section 29. Section **26B-4-904** is enacted to read:

**26B-4-904. Qualified medical psilocybin provider registration -- Continuing education -- Treatment recommendation.**

(1) Except as provided in Subsection (2), an individual may not recommend a medical psilocybin treatment unless the department registers the individual as a qualified medical psilocybin provider in accordance with this section.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical psilocybin provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirements described in Subsection (3);

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after January 1, 2025, provides to the department the information described in Subsection (9)(a); and

1361 (v) pays the department an amount that:  
1362 (A) the department sets, in accordance with Section [63J-1-504](#); and  
1363 (B) does not exceed \$300 for an initial registration.  
1364 (b) The department may not register an individual as a qualified medical psilocybin  
1365 provider if the individual is an owner, officer, director, board member, employee, or agent of a  
1366 psilocybin production establishment.  
1367 (3) (a) An individual shall complete the continuing education described in this  
1368 Subsection (3) in the following amounts:  
1369 (i) before registration, 16 hours; and  
1370 (ii) for renewing a registration, four hours every two years.  
1371 (b) In accordance with Subsection (3)(a), a qualified medical psilocybin provider shall:  
1372 (i) complete continuing education:  
1373 (A) regarding topics described in Subsection (3)(d); and  
1374 (B) offered by the department under Subsection (3)(c) or an accredited or approved  
1375 continuing education provider that the department recognizes as offering continuing education  
1376 appropriate for the recommendation of psilocybin to patients; and  
1377 (ii) make a continuing education report to the department in accordance with a process  
1378 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah  
1379 Administrative Rulemaking Act, and in collaboration with the Division of Professional  
1380 Licensing and the applicable licensing board for a health care provider who meets the  
1381 recommending qualifications.  
1382 (c) The department may, in consultation with the Division of Professional Licensing,  
1383 develop the continuing education described in this Subsection (3).  
1384 (d) The continuing education described in this Subsection (3) may discuss:  
1385 (i) the provisions of this part;  
1386 (ii) general information about psilocybin under federal and state law;  
1387 (iii) the latest scientific research on medical psilocybin, including risks and benefits;  
1388 (iv) best practices for recommending the form and dosage of psilocybin based on the  
1389 qualifying condition;  
1390 (v) systems and receptors affected by psilocybin;  
1391 (vi) mechanisms of action;

1392 (vii) drug interactions;  
1393 (viii) qualifying conditions;  
1394 (ix) diagnostic criteria;  
1395 (x) contraindications;  
1396 (xi) side effects and their mitigation;  
1397 (xii) administrative set and setting, including physical patient safety;  
1398 (xiii) integration;  
1399 (xiv) potential outcomes;  
1400 (xv) ethical considerations; and  
1401 (xvi) discharge safety planning.  
1402 (4) (a) A qualified medical psilocybin provider may only recommend psilocybin to an  
1403 individual under this part in the course of a provider-patient relationship after the qualified  
1404 medical psilocybin provider has:  
1405 (i) completed and documented in the patient's medical record a thorough assessment of  
1406 the patient's condition and medical history based on the appropriate standard of care for the  
1407 patient's condition;  
1408 (ii) verified that the patient has a qualifying condition; and  
1409 (iii) verified that the patient is at least 21 years old.  
1410 (b) To recommend a psilocybin treatment or to renew a recommendation, a qualified  
1411 medical psilocybin provider:  
1412 (i) shall meet with the patient face-to-face if the qualified medical psilocybin provider  
1413 has not recommended a psilocybin treatment to the patient in the past; or  
1414 (ii) may use telehealth services, if the qualified medical psilocybin provider  
1415 recommended a medical psilocybin treatment to the patient in the past.  
1416 (5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the  
1417 individual recommends medical psilocybin treatment.  
1418 (b) Notwithstanding Subsection (5)(a) and subject to Section [26B-4-910](#), a qualified  
1419 medical psilocybin provider or clinic or office that employs a qualified medical psilocybin  
1420 provider may advertise the following:  
1421 (i) the provider's or clinic's name and logo;  
1422 (ii) a qualifying condition that the individual treats;

1423 (iii) that the individual is registered as a qualified medical psilocybin provider and  
1424 recommends medical psilocybin; or  
1425 (iv) a scientific study regarding medical psilocybin use.  
1426 (6) (a) A qualified medical psilocybin provider registration card expires two years after  
1427 the day on which the department issues the card.  
1428 (b) The department shall renew a qualified medical psilocybin provider's registration  
1429 card if the psilocybin provider:  
1430 (i) applies for renewal;  
1431 (ii) is eligible for a qualified medical psilocybin provider registration card under this  
1432 section, including maintaining an unrestricted license under the recommending qualifications;  
1433 (iii) certifies to the department in a renewal application that the information in  
1434 Subsection (2)(a) is accurate or updates the information;  
1435 (iv) submits a report detailing the completion of the continuing education requirements  
1436 described in Subsection (3); and  
1437 (v) pays the department a fee in an amount that:  
1438 (A) the department sets, in accordance with Section [63J-1-504](#); and  
1439 (B) does not exceed \$50 for a registration renewal.  
1440 (7) The department may revoke the registration of a qualified medical psilocybin  
1441 provider who fails to maintain compliance with the requirements of this section.  
1442 (8) A qualified medical psilocybin provider may not receive any compensation or  
1443 benefit for the qualified medical psilocybin provider's medical psilocybin treatment  
1444 recommendation from a psilocybin production establishment or an owner, officer, director,  
1445 board member, employee, or agent of a psilocybin production establishment.  
1446 (9) (a) On or before January 1 of each year, a qualified medical provider shall report to  
1447 the department, in a manner designated by the department:  
1448 (i) if applicable, that the qualified medical psilocybin provider or the entity that  
1449 employs the qualified medical psilocybin provider represents online or on printed material that  
1450 the qualified medical psilocybin provider is a qualified medical psilocybin provider or offers  
1451 medical psilocybin recommendations to patients; and  
1452 (ii) the fee amount that the qualified medical psilocybin provider or the entity that  
1453 employs the qualified medical psilocybin provider charges a patient for a medical psilocybin

recommendation, either as an actual cash rate or, if the psilocybin provider or entity bills insurance, an average cash rate.

(b) The department shall:

(i) ensure that the following information related to qualified medical psilocybin providers and entities described in Subsection (9)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (9)(b)(ii):

(A) the name of the qualified medical psilocybin provider and, if applicable, the name of the entity that employs the qualified medical psilocybin provider;

(B) the address of the qualified medical psilocybin provider's office or, if applicable, the entity that employs the qualified medical psilocybin provider; and

(C) the fee amount described in Subsection (9)(a)(ii); and

(ii) share data collected under this Subsection (9) with the state auditory for use in the health care price transparency tool described in Section [67-3-11](#).

Section 30. Section **26B-4-905** is enacted to read:

**26B-4-905. Standard of care -- Provider not liable -- No private right of action.**

(1) A qualified medical psilocybin provider or a qualified therapy provider described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, possessing, or dispensing psilocybin or a psilocybin product:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Occupations and Professions.

(2) A qualified medical psilocybin provider or a qualified therapy provider is eligible for the protections described in Subsection (1) if the qualified medical provider or qualified therapy provider recommends or provides treatment with psilocybin or a psilocybin product to a patient in accordance with this part.

(3) Nothing in this section or part reduces or in any way negates the duty of a qualified medical psilocybin provider or qualified therapy provider to use reasonable and ordinary care in the treatment of a patient.

Section 31. Section **26B-4-906** is enacted to read:

**26B-4-906. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.**



1485           (1) For purposes of medical care, including an organ or tissue transplant, a patient's use  
1486 of psilocybin, in accordance with this part:

1487           (a) is the equivalent of authorized use of any other medication used at the discretion of  
1488 a physician; and

1489           (b) does not constitute the use of an illicit substance or otherwise disqualify an  
1490 individual from needed medical care.

1491           (2) (a) Notwithstanding any other provision of law and except as provided in  
1492 Subsection (2)(b), the state or any political subdivision shall treat:

1493           (i) an employee's use of medical psilocybin in accordance with this part or Section  
1494 58-37-3.7 in the same way the state or political subdivision treats employee use of any  
1495 prescribed controlled substance; and

1496           (ii) an employee's medical psilocybin recommendation from a qualified medical  
1497 psilocybin provider in the same way the state or political subdivision treats an employee's  
1498 prescription for any prescribed controlled substance.

1499           (b) A state or political subdivision employee who has a valid medical psilocybin  
1500 recommendation is not subject to retaliatory action, as that term is defined in Section  
1501 67-19a-101, for failing a drug test due to psilocybin or psilocin without evidence that the  
1502 employee was impaired or otherwise adversely affected in the employee's job performance due  
1503 to the use of medical psilocybin.

1504           (c) Subsections (2)(a) and (b) do not apply:

1505           (i) where the application of Subsections (2)(a) or (b) would jeopardize federal funding,  
1506 a federal security clearance, or any other federal background determination required for the  
1507 employee's position;

1508           (ii) if the employee's position is dependent on a license or peace officer certification  
1509 that is subject to federal regulations, including 18 U.S.C. Sec. 922(g)(3); or

1510           (iii) if an employee described in Subsections 34A-2-102(1)(h)(ii) through (vi) uses  
1511 medical psilocybin during the 12 hours immediately preceding the employee's shift or during  
1512 the employee's shift.

1513           (3) (a) (i) A state employer or a political subdivision employer shall take the action  
1514 described in Subsection (3)(a)(ii) before:

1515           (A) giving to a current employee an assignment or duty that arises from or directly

relates to an obligation under this part; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this part.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protection of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of psilocybin.

(b) The Division of Human Resources Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of psilocybin; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of psilocybin.

(d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section affects the ability of a private employer to have policies restricting the use of medical psilocybin by applicants or employees.

Section 32. Section 26B-4-907 is enacted to read:

**26B-4-907. No insurance requirement.**

Nothing in this part requires an insurer, a third-party administrator, or an employer to pay or reimburse for psilocybin or psilocybin product.

Section 33. Section **26B-4-908** is enacted to read:

**26B-4-908. Approved drugs.**

Nothing in this part restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

Section 34. Section **26B-4-909** is enacted to read:

**26B-4-909. Severability.**

(1) If any provision of this part or the application of any of the provisions of this part to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this part remain effective without the invalidated provision or application.

(2) The provisions of this part are severable.

Section 35. Section **26B-4-910** is enacted to read:

**26B-4-910. Advertising.**

(1) Except as provided in this part, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical psilocybin.

(2) Notwithstanding any authorization to advertise medical psilocybin under this part, the person advertising may not advertise:

(a) using promotional discounts or incentives; or

(b) an assurance regarding an outcome related to medical psilocybin treatment.

(3) Notwithstanding Subsection (1):

(a) a nonprofit organization that offers financial assistance for medical psilocybin treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific qualified therapy provider; and

(b) a qualified therapy provider may provide information regarding subsidies for the cost of medical psilocybin treatment to patients who affirmatively accept receipt of the subsidy information.

(4) To ensure that the name and logo of a licensee under this part have a medical rather than a recreational disposition, the name and logo of the licensee:

(a) may include terms and images associated with a medical disposition, including "medical," "medicinal," "medicine," "apothecary," "wellness," "therapeutic," "health," "care," "natural," "psilocybin," "clinic," "compassionate," "relief," "treatment," and "patient;"

(b) may not include:

(i) any term, statement, design representation, picture, or illustration that is associated with a recreational disposition that appeals to children; or

(ii) an emphasis on psychoactivity.

(5) The department shall define standards for advertising authorized under this part, including names and logos in accordance with Subsection (4), to ensure a medical rather than recreational disposition.

Section 36. Section **26B-4-911** is enacted to read:

**26B-4-911. Qualified therapy provider registration -- Continuing education -- Psilocybin administration.**

(1) An individual may not administer a medical psilocybin treatment unless the department registers the individual as a qualified therapy provider in accordance with this section.

(2) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified therapy provider registration card to the individual if the individual:

(a) provides to the department the individual's name;

(b) provides the address of the clinic at which the individual will be administering psilocybin to patients;

(c) provides to the department a report detailing the individual's completion of the applicable continuing education requirements described in Subsection (3);

(d) certifies to the department that the individual has installed and maintains an inventory control system;

(e) provides to the department evidence that the individual meets the therapy provider qualifications;

(f) pays the department an amount that:

(i) the department sets in accordance with Section [63J-1-504](#); and

(ii) does not exceed \$300 for an initial registration; and

(g) provides to the department an emergency transport plan for patients who experience a medical emergency during the course of treatment.

(3) (a) An individual shall complete the continuing education described in this

1609 Subsection (3) in the following amounts:

1610 (i) for initial registration, 16 hours; and

1611 (ii) for renewing a registration, four hours every two years.

1612 (b) In accordance with Subsection (3)(a), a qualified therapy provider shall:

1613 (i) complete continuing education:

1614 (A) regarding topics described in Subsection (3)(d); and

1615 (B) offered by the department under Subsection (3)(c) or an accredited or approved

1616 continuing education provider that the department recognizes as offering continuing education

1617 appropriate for the administration of psilocybin to patients; and

1618 (ii) make a continuing education report to the department in accordance with a process

1619 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah

1620 Administrative Rulemaking Act, and in collaboration with the Division of Professional

1621 Licensing and relevant licensing boards.

1622 (c) The department may, in consultation with the Division of Professional Licensing,

1623 develop the continuing education described in this Subsection (3).

1624 (d) The continuing education described in this Subsection (3) may discuss:

1625 (i) the provisions of this part;

1626 (ii) general information about psilocybin under federal and state law;

1627 (iii) the latest scientific research on medical psilocybin including risks and benefits;

1628 (iv) best practices for recommending the form and dosage of psilocybin based on the

1629 qualifying condition;

1630 (v) systems and receptors affected by psilocybin;

1631 (vi) mechanisms of action;

1632 (vii) drug interactions;

1633 (viii) qualifying conditions;

1634 (ix) diagnostic criteria;

1635 (x) contraindications;

1636 (xi) side effects and mitigation of side effects;

1637 (xii) administrative set and setting, including physical patient safety;

1638 (xiii) integration;

1639 (xiv) potential outcomes;

1640           (xv) ethical considerations; and  
1641           (xvi) discharge safety planning.  
1642           (4) A qualified therapy provider may only administer psilocybin to an individual under  
1643 this part:  
1644           (a) pursuant to a recommendation issued by a qualified medical psilocybin provider  
1645 under Section [26B-4-904](#);  
1646           (b) after obtaining and reviewing the patient's mental health history;  
1647           (c) after providing the patient with a safety data sheet created by the department which  
1648 outlines the potential risks of psilocybin use;  
1649           (d) if there are unexpired rescue medications on site as determined by the department  
1650 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;  
1651           (e) if either:  
1652           (i) the administration session is video recorded and the video recording is preserved for  
1653 one year; or  
1654           (ii) the patient gives written, informed consent waiving the video recording  
1655 requirement; and  
1656           (f) if the qualified therapy provider has a contractual relationship with a licensed  
1657 physician who remains on-call during the course of the administration session in case a patient  
1658 requires non-emergency medical intervention.  
1659           (5) A qualified therapy provider may only administer psilocybin or a psilocybin  
1660 product in a qualified therapy provider location.  
1661           (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the  
1662 individual administers medical psilocybin treatment.  
1663           (b) Notwithstanding Subsection (6)(a) and subject to Section [26B-4-910](#), a qualified  
1664 therapy provider or clinic or office that employs a qualified therapy provider may advertise the  
1665 following:  
1666           (i) the provider's or clinic's name and logo;  
1667           (ii) a qualifying condition that the individual treats;  
1668           (iii) that the individual is registered as a qualified therapy provider and administers  
1669 medical psilocybin; or  
1670           (iv) a scientific study regarding medical psilocybin use.

(7) (a) A qualified therapy provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified therapy provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified therapy provider registration card under this section, including maintaining an unrestricted license;

(iii) certifies to the department in a renewal application that the information in Subsection (2) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirements described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section [63J-1-504](#); and

(B) does not exceed \$50 for a registration renewal.

(8) Within seven days of the day on which an adverse event occurs, a qualified therapy provider shall submit to the department a report containing:

(a) the age and sex of the patient;

(b) the patient's pre-existing health conditions, if any;

(c) the qualifying condition for which psilocybin was administered;

(d) the amount of psilocybin administered to the patient;

(e) factors which contributed to the adverse event;

(f) the nature and severity of the adverse event; and

(g) the ultimate outcome of the adverse event.

(9) The department may revoke the registration of a qualified therapy provider who fails to maintain compliance with the requirements of this section.

Section 37. Section **26B-4-912** is enacted to read:

**26B-4-912. Qualified therapy provider agents -- Registration.**

(1) An individual may not serve as the agent of a qualified therapy provider unless the department registers the individual as a qualified therapy provider agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a prospective qualified therapy provider agent, register

and issue a qualified therapy provider agent card to the prospective agent if the prospective agent:

(i) provides to the department:

(A) the prospective agent's name and address; and

(B) the submission required under Subsection (2)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.



1733 (d) The department shall:  
1734 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an  
1735 amount that the department sets in accordance with Section 63J-1-504 for the services that the  
1736 Bureau of Criminal Identification or another authorized agency provides under this section; and  
1737 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal  
1738 Identification.

1739 (3) A qualified therapy provider agent shall comply with:  
1740 (a) a certification standard that the department develops; or  
1741 (b) a certification standard that the department has reviewed and approved.  
1742 (4) The department shall ensure that the certification standard described in Subsection  
1743 (3) includes training in Utah medical psilocybin law.

1744 (5) For an individual who holds or applies for a qualified therapy provider agent card:  
1745 (a) the department may revoke or refuse to issue the card if the individual violates the  
1746 requirements of this part; and  
1747 (b) the department shall revoke or refuse to issue the card if the individual is convicted  
1748 under state or federal law of:  
1749 (i) felony; or  
1750 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1751 (6) A qualified therapy provider agent registration card expires two years after the day  
1752 on which the department issues the card.

1753 (7) The department may renew a qualified therapy provider agent registration card if  
1754 the agent:  
1755 (a) is eligible for a qualified therapy provider agent registration card under this section;  
1756 (b) certifies to the department in a renewal application that the information in  
1757 Subsection (2)(a) is accurate or updates the information; and  
1758 (c) pays to the department a renewal fee in an amount that:  
1759 (i) subject to Section 26-61a-109, the department sets in accordance with Section  
1760 63J-1-504; and  
1761 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in  
1762 comparison to the original application process.

1763 Section 38. Section **26B-4-913** is enacted to read:

**26B-4-913. Qualified therapy provider registration card and agent registration card -- Rebuttable presumption.**

(1) An individual who is registered as a qualified therapy provider or qualified therapy provider agent shall carry the individual's applicable registration card issued by the department under this part at all times when the individual:

(a) is transporting psilocybin product between a psilocybin production establishment and a qualified therapy provider location; or

(b) handling a psilocybin product.

(2) If an individual possesses psilocybin or a psilocybin product and produces the registration card in the individual's possession while handling or transporting psilocybin in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the psilocybin product legally; and

(b) a law enforcement officer does not have probable cause, based solely on the possession of psilocybin or psilocybin product to believe the individual is engaging in illegal activity.

(3) (a) An individual described in Subsection (1) who fails to carry the registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) subject to a \$100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) For each conviction under Subsection (3)(a), the prosecuting entity shall:

(i) notify the department; and

(ii) for a conviction involving a qualified therapy provider agent, notify the relevant qualified therapy provider.

(c) For each violation described in Subsection (3)(a)(ii) committed by a qualified therapy provider agent, the department may assess the relevant qualified therapy provider a fine of up to \$2,500, in accordance with a fine schedule that the department establishes by rule in

1795 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1796 (d) An individual who is guilty of a violation described in Subsection (3)(a) is not  
1797 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
1798 underlying the violation described in Subsection (3)(a).

1799 Section 39. Section **26B-4-914** is enacted to read:

1800 **26B-4-914. Enforcement -- Fine -- Citation.**

1801 (1) (a) The department may, for a qualified therapy provider's violation of this chapter  
1802 or an applicable administrative rule:

1803 (i) revoke the qualified therapy provider's registration;

1804 (ii) refuse to renew the qualified therapy provider's registration; or

1805 (iii) assess the qualified therapy provider an administrative penalty.

1806 (b) The department may, for a qualified therapy provider agent's violation of this part:

1807 (i) revoke the qualified therapy provider agent registration card;

1808 (ii) refuse to renew the qualified therapy provider agent registration card; or

1809 (iii) assess the qualified therapy provider agent an administrative penalty.

1810 (2) The department shall deposit an administrative penalty imposed under this section  
1811 into the General Fund.

1812 (3) For a person subject to an uncontested citation, a stipulated settlement, or a finding  
1813 of violation in an adjudicative proceeding under this section, the department may:

1814 (a) for a fine amount not already specified in law, assess the person a fine of up to  
1815 \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule  
1816 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1817 (b) order the person to cease and desist from the action that creates a violation.

1818 (4) The department may not revoke a qualified therapy provider's registration without  
1819 first directing the qualified therapy provider to appear before an adjudicative proceeding  
1820 conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1821 (5) If, within 20 calendar days after the day on which the department issues a citation  
1822 for a violation of this part, the person that is the subject of the citation fails to request a hearing  
1823 to contest the citation, the citation becomes the department's final order.

1824 (6) The department may, for a person who fails to comply with a citation under this  
1825 section:

1826 (a) refuse to issue or renew the person's license or agent registration card; or  
1827 (b) suspend, revoke, or place on probation the person's license or agent registration  
1828 card.

1829 (7) (a) Except where a criminal penalty is expressly provided for a specific violation of  
1830 this part, if an individual violates a provision of this part, the individual is:

1831 (i) guilty of an infraction; and

1832 (ii) subject to a \$100 fine.

1833 (b) An individual who is guilty of a violation described in Subsection (7)(a) is not  
1834 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
1835 underlying the violation described in Subsection (7)(a).

1836 Section 40. Section **26B-4-915** is enacted to read:

1837 **26B-4-915. Report.**

1838 (1) On or before November 1, 2024, and each year thereafter, the department shall  
1839 submit a report to the Health and Human Services Interim Committee on:

1840 (a) the number of patients for whom psilocybin has been recommended;

1841 (b) the age and county of patients;

1842 (c) the number of qualified medical psilocybin providers;

1843 (d) the number of license applications and renewal license applications received;

1844 (e) the number of licenses the department has issued in each county;

1845 (f) the number of licenses the department has revoked;

1846 (g) the expenses incurred and revenues generated from the medical psilocybin  
1847 program; and

1848 (h) the number and nature of adverse events reported.

1849 (2) The department may not include personally identifying information in the report  
1850 described in this section.

1851 Section 41. Section **26B-4-916** is enacted to read:

1852 **26B-4-916. Religious Freedom Restoration Act.**

1853 Nothing in this chapter shall be construed as limiting any right or privilege a person  
1854 possesses under the Religious Freedom Restoration Act, 42 U.S.C. Sec. 2000bb et. seq.

1855 Section 42. Section **30-3-10** is amended to read:

1856 **30-3-10. Custody of a child -- Custody factors.**

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material

harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

- (h) the parent's reasons for having relinquished custody or parent-time in the past;
- (i) duration and depth of desire for custody or parent-time;
- (j) the parent's religious compatibility with the child;
- (k) the parent's financial responsibility;
- (l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;
- (m) who has been the primary caretaker of the child;
- (n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;
- (o) the relative benefit of keeping siblings together;
- (p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;
- (q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and
- (r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

- (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;
- (b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;
- (c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or
- (d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4) (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5) (a) A child may not be required by either party to testify unless the trier of fact

determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b) (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years ~~[of age]~~ old or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a

deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; [or]

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) medical cannabis courier agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act[-]; or

(c) consider or treat a parent's lawful possession or use of psilocybin or psilocybin product in accordance with Title 4, Chapter 41c, Psilocybin Production Act, and Title 26B, Chapter 4, Part 9, Utah Medical Psilocybin Act, any differently than the court would consider the lawful possession or use of any prescribed substance.

Section 43. Section 31A-22-1016 is amended to read:

**31A-22-1016. Workers' compensation coverage for medical cannabis operations.**

A licensed and admitted workers' compensation insurer may issue coverage to:

(1) a cannabis production establishment as defined in Section 4-41a-102; [or]

(2) a medical cannabis pharmacy as defined in Section 26-61a-102[-]; or

(3) a psilocybin production establishment as defined in Section 4-41c-101.

Section 44. Section 58-31b-305 is amended to read:

**58-31b-305. Term of license -- Expiration -- Renewal.**

(1) (a) The division shall issue each license or certification under this chapter in



1981 accordance with a two-year renewal cycle established by rule.

1982 (b) The division may by rule extend or shorten a renewal period by as much as one year  
1983 to stagger the renewal cycles the division administers.

1984 (2) The division shall renew the license of a licensee who, at the time of renewal:

1985 (a) completes and submits an application for renewal in a form prescribed by the  
1986 division;

1987 (b) pays a renewal fee established by the division under Section [63J-1-504](#);

1988 (c) views a suicide prevention video described in Section [58-1-601](#) and submits proof  
1989 in the form required by the division; and

1990 (d) meets continuing competency requirements as established by rule.

1991 (3) In addition to the renewal requirements under Subsection (2), a person licensed as  
1992 an advanced practice registered nurse shall be currently certified by a program approved by the  
1993 division in collaboration with the board and submit evidence satisfactory to the division of that  
1994 qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

1995 (4) In addition to the requirements described in Subsections (2) and (3), an advanced  
1996 practice registered nurse licensee specializing in psychiatric mental health nursing who, as of  
1997 the day on which the division originally issued the licensee's license had not completed the  
1998 division's clinical practice requirements in psychiatric and mental health nursing, shall, to  
1999 qualify for renewal:

2000 (a) if renewing less than two years after the day on which the division originally issued  
2001 the license, demonstrate satisfactory progress toward completing the clinical practice  
2002 requirements; or

2003 (b) have completed the clinical practice requirements.

2004 (5) Each license or certification automatically expires on the expiration date shown on  
2005 the license or certification unless renewed in accordance with Section [58-1-308](#).

2006 (6) The division shall accept and apply toward an hour requirement that the division  
2007 establishes under Subsection (2)(d) continuing education that an advanced practice registered  
2008 nurse completes in accordance with Section [26-61a-106](#), [26B-4-904](#), or [26B-4-911](#).

2009 Section 45. Section **58-37-3.1** is enacted to read:

2010 **58-37-3.1. Exemption for possession or distribution of psilocybin or psilocybin**  
2011 **product.**

(1) As used in this section, "psilocybin" means any mushroom containing psilocybin whether fresh or dried.

(2) Notwithstanding any other provision of law, an individual is not guilty for a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41c, Psilocybin Production Act, or Title 26B, Chapter 4, Part 9, Utah Medical Psilocybin Act:

(a) possessing, ingesting, producing, manufacturing, dispensing, distributing, selling, or offering to sell psilocybin or a psilocybin product; or

(b) possessing psilocybin or a psilocybin product with the intent to engage in conduct described in Subsection (2)(a).

(3) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41c, Psilocybin Production Act, or Title 26B, Chapter 4, Part 9, Utah Medical Psilocybin Act, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of psilocybin or a psilocybin product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

Section 46. Section **58-60-205.5** is amended to read:

**58-60-205.5. Continuing education.**

(1) As a condition for renewal of a license under this part, a social service worker licensee shall, during each two-year licensure cycle, complete qualified continuing professional education, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division shall accept and apply toward the professional education established under Subsection (1) any hours completed in accordance with Section [26B-4-911](#).

Section 47. Section **58-61-306** is amended to read:

**58-61-306. Continuing education.**

(1) By rule made under Section [58-1-203](#), the division may establish a continuing education requirement as a condition for renewal of a license under this chapter upon finding continuing education is necessary to reasonably protect the public health, safety, or welfare.

(2) The division shall accept and apply toward the professional education established

under Subsection (1) any hours completed in accordance with Section [26B-4-911](#).

Section 48. Section **58-67-304** is amended to read:

**58-67-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection [58-67-302](#)(1)(i);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section [58-67-302.8](#), successfully complete the educational methods and programs described in Subsection [58-67-807](#)(4).

(2) If a renewal period is extended or shortened under Section [58-67-303](#), the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,

Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with ~~Sections 26-61a-106 and 26-61a-403~~ Section 26-61a-106, 26-61a-403, 26B-4-904, or 26B-4-911.

Section 49. Section ~~58-68-304~~ is amended to read:

**~~58-68-304.~~ License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection ~~58-68-302~~(1)(i);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection ~~58-68-302~~(1)(j); and

(d) if the licensee is an associate physician licensed under Section ~~58-68-302.5~~, successfully complete the educational methods and programs described in Subsection ~~58-68-807~~(4).

(2) If a renewal period is extended or shortened under Section ~~58-68-303~~, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with ~~[Sections 26-61a-106 and 26-61a-403]~~ Section 26-61a-106, 26-61a-403, 26B-4-904, or 26B-4-911.

Section 50. Section ~~58-70a-303~~ is amended to read:

**~~58-70a-303. Term of license -- Expiration -- Renewal.~~**

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section ~~58-1-308~~.

(4) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2) continuing education that a physician assistant completes in accordance with Section 26-61a-106, 26B-4-904, or 26B-4-911.